

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

13 SEP 20 PH 1:01

ANGELA W. DEBOSE,
INDIVIDUALLY and as
PERSONAL REPRESENTATIVE
Of the ESTATE of BERTHA
WASHINGTON (deceased),

v.

JOHNSON & JOHNSON, et al.

MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CIVIL ACTION

NO. 8:13cv2437T27MAY

COMPLAINT

COMES NOW the Plaintiff, ANGELA W. DEBOSE, as Personal Representative of the ESTATE of BERTHA WASHINGTON, to hereby sue Defendants, McNEIL-PPC (—McNeil-PPC), parent corporation, JOHNSON & JOHNSON (—J&J), and the WALGREEN COMPANY (—Walgreens) and alleges as follows:

PARTIES

1. Plaintiff, BERTHA WASHINGTON, deceased, was at all times relevant hereto, a resident of Hillsborough County, Florida, of the age of 72 years.
2. Plaintiff, ANGELA DEBOSE, is Personal Representative of the ESTATE of BERTHA WASHINGTON (hereinafter “BERTHA WASHINGTON”) and was at all times relevant hereto, a resident of Tampa, Florida.
3. Defendant, McNEIL-PPC, INC., is a wholly-owned subsidiary of Johnson & Johnson that manufactures pharmaceutical and personal care consumer products,

including over the counter ("OTC") medications, such as Tylenol, Motrin, and Benadryl, and is based in Fort Washington, Pennsylvania.

4. Defendant, JOHNSON & JOHNSON, is a three-sector health care company based in New Brunswick, New Jersey and is the ultimate parent company of McNeil-PPC, Inc.

5. Defendant, The WALGREEN COMPANY, provides access to consumer goods and services and is the largest drug retailing chain in the United States and a three-sector health care company based in Deerfield, Illinois.

6. All events giving rise to this complaint occurred in Hillsborough County, Florida.

VENUE AND JURISDICTION

7. This is a personal injury and wrongful death action arising out of injuries suffered by the lineal descendants of the Estate of Bertha Washington concerning the wrongful death of Bertha Washington after she ingested a dose of the over-the-counter medication, Tylenol 500 mg gel capsules.

8. The Tylenol 500 mg gel capsules were produced by McNEIL-PPC, Inc. (—McNEIL-PPC) at its Fort Washington, Pennsylvania production facility. The Tylenol 500 mg gel capsules were purchased by Bertha Washington from Walgreens at a Tampa, Florida location.

9. This action is proper in the Middle District of Florida, Tampa Division, as all material facts of this cause of action occurred on or about September 21, 2011, in Hillsborough County, Florida.

10. This is an action for damages in excess of Seventy-Five Thousand Dollars and No/100 (\$75,000.00) exclusive of fees and costs.

11. This action is brought, among other things, pursuant to 28 U.S.C. §1367 which provides supplemental jurisdiction over state law claims and 28 U.S.C. §1332 on the basis of diversity jurisdiction.

12. This is an action brought pursuant to 42 U.S.C. §1983, which provides: "Every person, who under color of any statute, ordinance, regulation, custom or usage of any State or Territory.... Subjects or causes to be subjected any citizen of the United States or others person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action of law, suit in equity or other proper proceeding for redress."

13. Venue and jurisdiction are proper in this Court because all the wrongful acts complained of occurred within this judicial district Hillsborough County and several of these claims are being brought under 42 U.S.C. §1983.

14. That the statutory survivors of BERTHA WASHINGTON, deceased, are as follows:

- a. The Estate of JOSEPH WASHINGTON, predeceased Husband of BERTHA WASHINGTON;
- b. JOSEPH WASHINGTON, JR, surviving Son of BERTHA WASHINGTON;
- c. PATRICIA WASHINGTON, surviving Daughter of BERTHA WASHINGTON.
- d. CHERYL HARRIS, surviving Daughter of BERTHA WASHINGTON.

e. GILBERT WASHINGTON, surviving Son of BERTHA WASHINGTON.

f. MICHAEL WASHINGTON, surviving Son of BERTHA WASHINGTON.

g. ANGELA W. DEBOSE, surviving Daughter of BERTHA WASHINGTON.

h. LAVONNE WASHINGTON, surviving Daughter of BERTHA
WASHINGTON.

i. LASHAWN WASHINGTON, surviving Daughter of BERTHA
WASHINGTON.

15. All conditions precedent to the filing of this action have occurred, accrued or have been waived as a matter of law.

GENERAL ALLEGATIONS

16. The plaintiff alleges that Bertha Washington's injuries and eventual death are directly attributable to quality control problems, defective production at the Fort Washington plant resulting in a recall of Tylenol, failure to adequately warn of the dangers of long-term use of the recommended dosage, and defective recall/removal to pull the unsafe product from the shelf. The plaintiffs now file suit against the defendants, asserting claims for their mother's death, against McNEIL-PPC, McNEIL-PPC's ultimate parent corporation, Johnson & Johnson (—J&J), and Walgreens Company (—Walgreens) as the corporate store that sold Ms. Washington the purportedly defective bottle of Tylenol 500mg gel capsules that was left on the shelf after a product recall of the drug purchased by Ms. Washington. Plaintiff alleges as follows:

17. Bertha Washington was a 72 year-old black female, who survived her husband Joseph Washington of 50 years.

18. On May of 2007, Joseph Washington passed away with illness. It was around this time that Bertha Washington began routinely taking Tylenol 500 mg 1 to 2 every night to help her sleep.

19. Bertha Washington took Tylenol one or two gel caps 500 mg routinely as needed to help her sleep. Though her daughter, LaShawn Washington, an RN purchased Melatonin, a natural sleep aid to help her mother rest, Bertha Washington preferred and continued to take the Tylenol as needed for sleep, as opposed to other sleep aids.

20. Bertha Washington was in relatively good health and regularly visited her primary care physician every three months for routine checkups. Bertha Washington's doctor's office records and labs reflect this as well.

21. It was regular or customary for LaShawn Washington, RN, to review Bertha Washington's blood work. In the last labs prior to hospitalization in September 2011, the only significant change in Bertha Washington's was the alkaline phosphatase level was elevated at 170, but the liver enzymes the AST and ALT both remained within normal limits (28).

22. Bertha Washington had planned a follow-up visit with her primary care physician, Dr. Vincent Farrier, but was not able to do so, because when presenting to the doctor's office for her visit, Bertha Washington and LaShawn Washington found that the office was closed. Both later learned it was because Dr. Farrier's was out due to illness.

Therefore, the Washington's were told by telephone that the office would call to reschedule as soon as Dr. Farrier was better and back in the office.

23. Bertha Washington continued her regimen of taking the Tylenol nightly for sleep.

24. Around the middle or end of August 2011, while shopping at Walgreen's Drugstore, LaShawn Washington found a single bottle of Tylenol gel caps (NDC 50580-488-50) on the shelf. LaShawn thought it fortunate to get it for her mother, Bertha Washington, and commented and expressed her surprise to the cashier that it was the last remaining bottle of Tylenol on the shelf.

25. LaShawn Washington was short on cash so she asked the cashier to hold the bottle of Tylenol at the register while she ran home to get the money. Instead of LaShawn going back to make the purchase, Bertha Washington sent her son, Gilbert Washington, back to Walgreens with a check to pay for the bottle that the store was holding.

26. Gilbert Washington paid for the Tylenol with his mother's check. Bertha Washington resumed taking the Tylenol immediately.

27. Days preceding her admission to the hospital, Mrs. Washington stopped taking the Tylenol around September 13, 2011, telling her daughter that she felt it was making her too "drowsy and sleepy."

28. On Thursday, September 15, 2011, Bertha Washington woke up, not feeling bad, but not like herself. It was on this day that Bertha Washington, a small lady,

noticed her shorts fitting rather tight around her abdomen, which she pointed out to her daughter.

29. LaShawn Washington examined her mother's abdomen and was also surprised by the sudden distension of it. Both Bertha Washington and LaShawn Washington dismissed it as intestinal gas and bloated-ness, given her feeling of fullness and not feeling hungry.

30. LaShawn Washington told her mother that she would call Dr. Farrier's office to reschedule her appointment that was cancelled by the office due to Dr. Farrier's illness, especially since they had not yet called back to reschedule.

31. LaShawn Washington reassessed her mother's abdomen on Friday morning, September 16, 2011, and noticed the abdomen was not quite as swollen.

32. Later, after eating a few bites of a chicken salad sandwich that she did not finish due to lack of an appetite, Bertha Washington's abdomen swelled up again and she began having diarrhea, followed by nausea & vomiting.

33. On Saturday morning, September 17th, Mrs. Washington's daughters took her to see her ND, Dr. Kim Nguyen, who gave Mrs. Washington an herbal medicine to help control the nausea and vomiting. Mrs. Washington began feeling somewhat better after the visit, and returned home on bed rest.

34. However, the nausea, vomiting, and diarrhea eventually returned and Mrs. Washington was becoming dehydrated.

35. As a registered nurse of 27 years, LaShawn Washington administered (2) 500 cc bags of NS to keep her hydrated and B/P stable. The paramedics were called, and

preceded to give more fluids to stabilize the B/P and control the N&V. Bertha Washington was admitted to St Joseph's Hospital on September 17, 2011 with liver related dysfunction, ascites, coagulopathy, and later cirrhosis.

36. While in the hospital, Bertha Washington's liver enzymes were high and she had fluid in abdomen (i.e. ascites). The doctors asked Bertha Washington's children, all of whom were at the hospital, if she was a drinker and the family and Bertha Washington gave the doctors assurances that she was not.

37. Bertha Washington was not a drinker or smoker, did not purchase or have alcohol or liquor in her home, and was not taking any other medicine or agent, other than Tylenol, reputed and known for its serious and toxic effects on the liver.

38. Bertha Washington took the minimal or recommended daily dosage of Tylenol, whose effects are unknown and poorly researched in chronic or long term users and thus gave no adequate warning to her of its dangers.

39. Bertha Washington's liver enzymes, specifically the AST (62), were initially elevated on admission, with both the ALT and AST subsequently climbing thereafter.

40. On September 21, 2011, Bertha Washington passed away from sudden and unexpected complications associated with liver dysfunction/liver disease/cirrhosis, and renal failure. She was 72 years old who was relatively healthy, had not been hospitalized for any medical problems since she was a young woman, and had no history of liver disease.

41. Bertha Washington was the wife of a minister, mother, Sunday School teacher, and Sears Roebuck and Company retiree after over 25 years of employment. She saw her primary care physician regularly every three months for checkups and blood work. Her blood work, including the outpatient blood work done on August 4, 2011, does not reveal any pre-existing liver related complications or issues.

42. Bertha Washington did not overuse the Tylenol, or exceed the recommended dose and warnings prescribed on the box's label. She only routinely took a single 500mg gel cap (and only on rare occasions two) as needed to sleep following the death of her husband, Joseph Washington.

43. Plaintiff has brought this action under 42 U.S.C. §1983 and is entitled to recover from Defendants.

WHEREFORE, for the foregoing reasons, Plaintiff, ANGELA W. DEBOSE, as Personal Representatives of the ESTATE of BERTHA WASHINGTON, respectfully requests this Honorable Court to take jurisdiction of this cause and the parties to this action and enter an award of damages against Defendants, McNeil-PPC, INC., JOHNSON & JOHNSON, and WALGREENS and to award Plaintiff her costs. Plaintiff respectfully requests a judgment against Defendant for all damages allowed by law, as Plaintiff suffered the death and loss of her mother and such other and further relief as this Honorable Court deems just and proper under the circumstances.

**COUNT I
WRONGFUL DEATH**

44. This claim is brought pursuant to the Wrongful Death Act, Florida Statute, Chapter 768.

45. Plaintiff, ANGELA W. DEBOSE, re-alleges the allegations contained in paragraphs 1 through 44 above, as if fully set forth herein.

46. At all times material hereto, Defendants, had a duty to use reasonable care in the performance of so as not to endanger the lives and safety of persons within any foreseeable zones of risk created by such activities, including BERTHA WASHINGTON.

47. Defendants breached said duty by quality control problems; inadequate research and testing and failure to warn of the harmful effects of long-term or chronic use of Tylenol at the recommended dosage; defective production at the Fort Washington plant resulting in a recall of Tylenol; and defective recall/removal to pull the unsafe product from the shelf.

48. Defendants' breach of said duty is the proximate cause of BERTHA WASHINGTON'S death.

WHEREFORE, for the foregoing reasons, Plaintiff, ANGELA DEBOSE, as Personal Representative of BERTHA WASHINGTON, respectfully requests this Honorable Court to take jurisdiction of this cause and the parties to this action and enter an award of damages against Defendants for all damages allowed by law including

punitive damages, as Plaintiff suffered death and seeks damages, and such other and further relief as this Honorable Court deems just and proper under the circumstances.

**COUNT II
STRICT LIABILITY**

49. This claim is brought pursuant to the Strict Liability under Restatement (Second) of Torts § 402A, Special Liability of Seller of Product for Physical Harm to User or Consumer.

50. Plaintiff, ANGELA W. DEBOSE, re-alleges the allegations contained in paragraphs 1 through 49 above, as if fully set forth herein.

51. Defendants failed to minimize the damage posed by Tylenol on the market in interstate commerce.

52. BERTHA WASHINGTON, deceased would have been entitled to maintain an action and recover damages if her death had not ensued from the actions of DEFENDANTS.

53. DEFENDANTS are strictly liable for their defective product in the stream of interstate commerce that contributed to BERTHA WASHINGTON'S death.

WHEREFORE, for the foregoing reasons, Plaintiff, ANGELA DEBOSE, as Personal Representative of BERTHA WASHINGTON, respectfully requests this Honorable Court to take jurisdiction of this cause and the parties to this action and enter an award of damages against Defendants for all damages allowed by law including punitive damages, as Plaintiff suffered death and seeks damages, and such other and further relief as this Honorable Court deems just and proper under the circumstances.

**COUNT III
STRICT LIABILITY**

54. This claim is brought pursuant to the Strict Liability under Restatement (Second) of Torts § 402B, Misrepresentation of Chattels to Consumer.

55. Plaintiff, ANGELA W. DEBOSE, re-alleges the allegations contained in paragraphs 1 through 54 above, as if fully set forth herein.

56. Defendants failed to minimize the damage posed by Tylenol on the market in interstate commerce.

57. BERTHA WASHINGTON, deceased would have been entitled to maintain an action and recover damages if her death had not ensued from the actions of DEFENDANTS.

58. DEFENDANTS are strictly liable for their defective product in the stream of interstate commerce that contributed to BERTHA WASHINGTON'S death.

WHEREFORE, for the foregoing reasons, Plaintiff, ANGELA DEBOSE, as Personal Representative of BERTHA WASHINGTON, respectfully requests this Honorable Court to take jurisdiction of this cause and the parties to this action and enter an award of damages against Defendants for all damages allowed by law including punitive damages, as Plaintiff suffered death and seeks damages, and such other and further relief as this Honorable Court deems just and proper under the circumstances.

**COUNT IV
VICARIOUS LIABILITY**

59. This claim is brought pursuant to Vicarious Liability under Restatement (Second) of Torts § 520.

60. Plaintiff, ANGELA W. DEBOSE, re-alleges the allegations contained in paragraphs 1 through 59 above, as if fully set forth herein.

61. Defendant, JOHNSON & JOHNSON had actual or constructive knowledge that Defendant, McNeil-PPC, Inc. failed to properly or sufficiently supervise the operation and production of Tylenol, leading to quality control problems and defective production at the Fort Washington plant—resulting in a recall of Tylenol.

62. Defendant, JOHNSON & JOHNSON, is the ultimate parent company of McNeil-PPC, Inc.

63. Defendant, McNeil-PPC, Inc. is a wholly-owned subsidiary of JOHNSON & JOHNSON and its conduct and actions were the type JOHNSON & JOHNSON expected them to perform in the time, space, and limits of their enterprise relationship.

64. Defendant, McNeil-PPC, Inc.'s conduct and actions were activated at least in part by a purpose to serve JOHNSON & JOHNSON.

65. At all times material hereto, Defendant, JOHNSON & JOHNSON had a duty to exercise reasonable supervision and control so as not to endanger the lives and safety of persons within any foreseeable zones of risk created by McNeil-PPC, Inc.'s activities, including BERTHA WASHINGTON.

66. Defendant, JOHNSON & JOHNSON breached said duty.

67. Defendant, JOHNSON & JOHNSON'S breach of said duty is the proximate cause of BERTHA WASHINGTON'S death.

68. BERTHA WASHINGTON, deceased would have been entitled to maintain an action and recover damages if her death had not ensued from the actions of JOHNSON & JOHNSON.

WHEREFORE, for the foregoing reasons, Plaintiff, ANGELA DEBOSE, as Personal Representative of BERTHA WASHINGTON, respectfully requests this Honorable Court to take jurisdiction of this cause and the parties to this action and enter an award of damages against Defendants for all damages allowed by law including punitive damages, as Plaintiff suffered death and seeks damages, and such other and further relief as this Honorable Court deems just and proper under the circumstances.

**COUNT V
NEGLIGENCE**

69. This claim is brought pursuant to Negligence for physical harm.

70. Plaintiff, ANGELA W. DEBOSE, re-alleges the allegations contained in paragraphs 1 through 69 above, as if fully set forth herein.

71. Defendants had on the market a product that was unreasonably dangerous for its intended use and in a condition not reasonably contemplated by the ultimate consumer.

72. Defendants were aware that the product would cause injury, the gravity of the danger posed, and the adverse consequences to the product and to the consumer,

BERTHA WASHINGTON, but breach its duty in failing to insure the product was pulled from the market.

73. Defendants' breach of said duty is the proximate cause of BERTHA WASHINGTON'S death.

74. BERTHA WASHINGTON, deceased would have been entitled to maintain an action and recover damages if her death had not ensued from the actions of DEFENDANTS.

WHEREFORE, for the foregoing reasons, Plaintiff, ANGELA DEBOSE, as Personal Representative of BERTHA WASHINGTON, respectfully requests this Honorable Court to take jurisdiction of this cause and the parties to this action and enter an award of damages against Defendants for all damages allowed by law including punitive damages, as Plaintiff suffered death and seeks damages, and such other and further relief as this Honorable Court deems just and proper under the circumstances.

**COUNT VI
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

75. This claim is brought pursuant to Breach of Implied Warranty of Merchantability under U.C.C. 2-316(2).

76. Plaintiff, ANGELA W. DEBOSE, re-alleges the allegations contained in paragraphs 1 through 75 above, as if fully set forth herein.

77. Defendants placed on the market a product that was unreasonably dangerous for its intended use and in a condition not reasonably contemplated by the ultimate consumer.

78. Defendants was aware that the product would not pass without objection and failed to adequately recall the produce known to cause injury and adverse consequences to the consumer, and did not adequately conform to the promise or affirmations of fact made on the container or label.

79. Defendants' breach of the Implied Warranty of Merchantability is the proximate cause of BERTHA WASHINGTON'S death.

80. BERTHA WASHINGTON, deceased would have been entitled to maintain an action and recover damages if her death had not ensued from the actions of DEFENDANTS.

WHEREFORE, for the foregoing reasons, Plaintiff, ANGELA DEBOSE, as Personal Representative of BERTHA WASHINGTON, respectfully requests this Honorable Court to take jurisdiction of this cause and the parties to this action and enter an award of damages against Defendants for all damages allowed by law including punitive damages, as Plaintiff suffered death and seeks damages, and such other and further relief as this Honorable Court deems just and proper under the circumstances.

**COUNT VII
BREACH OF EXPRESS WARRANTY**

81. This claim is brought pursuant to Breach of Express Warranty under U.C.C. 2-316(2).

82. Plaintiff, ANGELA W. DEBOSE, re-alleges the allegations contained in paragraphs 1 through 81 above, as if fully set forth herein.

83. Defendants placed on the market a product that was unreasonably dangerous for its intended use and in a condition not reasonably contemplated by the ultimate consumer.

84. Defendants was aware that the product would not pass without objection and did not conform to affirmations or promises made on the bottle or label.

85. Defendants warranted that the goods conformed to the description and warranted that the whole of the goods conformed to safety expectations for consumer use and placement in the marketplace.

86. Defendants' breach of their Express Warranty as to the fitness and safety of the Tylenol product for consumer use and consumption is the proximate cause of BERTHA WASHINGTON'S death.

87. BERTHA WASHINGTON, deceased would have been entitled to maintain an action and recover damages if her death had not ensued from the actions of DEFENDANTS.

WHEREFORE, for the foregoing reasons, Plaintiff, ANGELA DEBOSE, as Personal Representative of BERTHA WASHINGTON, respectfully requests this Honorable Court to take jurisdiction of this cause and the parties to this action and enter an award of damages against Defendants for all damages allowed by law including punitive damages, as Plaintiff suffered death and seeks damages, and such other and further relief as this Honorable Court deems just and proper under the circumstances.

**COUNT VIII
VIOLATION OF CONSUMER PROTECTION LAW**

88. This claim is brought pursuant to Violation of the Consumer Protection Act (80 Stat. 1296, 15 U.S.C. §§ 1451-1461).

89. Plaintiff, ANGELA W. DEBOSE, re-alleges the allegations contained in paragraphs 1 through 88 above, as if fully set forth herein.

90. Defendants placed on the market a product that was unreasonably dangerous for its intended use and in a condition not reasonably contemplated by the ultimate consumer.

91. Defendants was aware that the product would not pass without objection and did not conform to affirmations or promises made on the bottle or label.

92. Defendants warranted that the goods conformed to the description and warranted that the whole of the goods conformed to safety expectations for consumer use and placement in the marketplace.

93. Defendants put a dangerous product in the marketplace and in interstate commerce and did not adequately research of test to insure its fitness for use or consumption on a long-term use basis when following its recommended daily dose, breached several warranties as to the fitness and safety of the Tylenol product, and failed to fully pull the defective products from the shelf in the marketplace when it was recalled.

94. Defendants violation of consumer protection laws is the proximate cause of BERTHA WASHINGTON'S death.

95. BERTHA WASHINGTON, deceased would have been entitled to maintain an action and recover damages if her death had not ensued from the actions of DEFENDANTS.

WHEREFORE, for the foregoing reasons, Plaintiff, ANGELA DEBOSE, as Personal Representative of BERTHA WASHINGTON, respectfully requests this Honorable Court to take jurisdiction of this cause and the parties to this action and enter an award of damages against Defendants for all damages allowed by law including punitive damages, as Plaintiff suffered death and seeks damages, and such other and further relief as this Honorable Court deems just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff, ANGELA W. DEBOSE, as Personal Representative of the ESTATE of BERTHA WASHINGTON hereby demands a trial by jury for all issues to triable.

DATED this 20th day of September, 2013.

Angela W. DeBose
Angela W. DeBose, Personal Representative

1107 W. Kirby St.
Tampa, FL 33604
(813) 932-6959

IN THE CIRCUIT COURT FOR HILLSBOROUGH
COUNTY, FLORIDA
PROBATE DIVISION

IN RE: ESTATE OF

File No. 11- 2599

BERTHA B. WASHINGTON,

Deceased.

ORDER APPOINTING PERSONAL REPRESENTATIVE
(intestate - single)

On the petition of ANGELA W. DEBOSE for administration of the estate of BERTHA B. WASHINGTON, deceased, the Court finding that the decedent died on September 21, 2011; and that ANGELA W. DEBOSE is entitled to appointment as Personal Representative by reason of preference as the daughter of the decedent, and is qualified to be Personal Representative, it is

ADJUDGED that ANGELA W. DEBOSE is appointed Personal Representative of the estate of the decedent, ^{Contingent} ~~and~~ that upon taking the prescribed oath, filing the designation and acceptance of resident agent, and entering into bond in the sum of \$10,000.00, letters of administration shall be issued.

ORDERED on Dec 1, 2011.

Judge Claudia R. Groom

Circuit Judge

IN THE CIRCUIT COURT FOR HILLSBOROUGH
COUNTY, FLORIDA
PROBATE DIVISION

IN RE: ESTATE OF

File No.

BERTHA B. WASHINGTON,

Deceased.

OATH OF PERSONAL REPRESENTATIVE,
AND DESIGNATION AND ACCEPTANCE OF RESIDENT AGENT

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

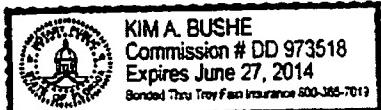
I, ANGELA W. DEBOSE (Affiant), state under oath that:

1. I am qualified within the provisions of Sections 733.302, 733.303 and 733.304 of the Florida Probate Code to serve as Personal Representative of the estate of BERTHA B. WASHINGTON, deceased.
2. I will faithfully administer the estate of the decedent according to law.
3. My place of residence is 1107 W. Kirby Street, Tampa, Florida 33604, and my post office address is the same.
4. I hereby designate N. Michael Kouskoutis, Esq., who is a member of The Florida Bar, a resident of Pinellas County, Florida, whose office address is 623 East Tarpon Avenue, Tarpon Springs, Florida 34689, and whose post office address is 623 East Tarpon Avenue, Tarpon Springs, Florida 34689, as my agent for the service of process or notice in any action against me, either in my representative capacity, or personally, if the personal action accrued in the administration of the estate.

Angela W. DeBose
ANGELA W. DEBOSE
Affiant

Sworn to and subscribed to before me on July 2nd, 2011, by Affiant, who is personally known to me ✓ or who produced _____ as identification.

Kim A. Bushe
Notary Public State of Florida
My Commission Expires: 6/27/14
My Commission Number is: DD 973518



**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
OF FLORIDA,
IN AND FOR HILLSBOROUGH COUNTY
CIVIL DIVISION**

ANGELA W. DEBOSE,
INDIVIDUALLY and as
PERSONAL REPRESENTATIVE
Of the ESTATE of BERTHA
WASHINGTON (deceased).

Petitioner,

v.

ST. JOSEPH'S HOSPITAL,
SHAHEEN MOTIWALA, M.D.

Respondents,

/

**PETITION FOR 90 DAY EXTENSION OF FLORIDA MEDICAL
MALPRACTICE STATUTE OF LIMITATIONS**

COMES NOW THE Petitioner, pursuant to Florida Statute 766.104(2), and petitions the Clerk of the Court for a 90-day extension of the Statute of Limitations, set forth in Florida Statute 95.11, to allow the reasonable investigation of a medical malpractice, wrongful death claim as required by Florida Statute 766.104 alleges:

1. A 90-day extension at this time is necessary to obtain sufficient information to establish liability among several possible defendants.

WHEREFORE, Petitioner requests the automatic 90-day extension of time authorized by Florida Statute 766.104(2).

DATED this 1st day of September, 2013.

FLORIDA CERTIFICATE OF DEATH								
CERTIFIED COPY								
1 LOCAL FILE NO.								
2 DECEDENT'S NAME (First, Middle, Last, Check)		BERTHA B. WASHINGTON FEMALE						
3 DATE OF BIRTH (Month, Day, Year)		4 NO. SOC. SEC. NUMBER		5 DECEASED'S PLACE OF RESIDENCE (Street, Box, Room, Floor, Apartment)		6 DATE OF DEATH (Month, Day, Year)		
February 17, 1939		72		72, Lexington, Georgia		September 21, 2011		
8 SOCIAL SECURITY NUMBER		8 DECEASED'S PLACE OF DEATH (City and State or Foreign Country)					9 COUNTY OF DEATH	
9 ADDRESS (Check one box)		LEXINGTON, GEORGIA					HILLSBOROUGH	
10 PLACE OF DEATH		11 DECEASED'S OCCUPATION					12 CITY, TOWN, OR LOCATION OF DEATH	
HOSPITAL		Emergency Room/Department					TAMPA	
NON-HOSPITAL		Nursing Home/Assisted Living Facility						
13 FACILITY NAME (If not patient, give street address)		14 CITY, TOWN, OR LOCATION OF DEATH					15 INSIDE CITY LIMITS	
ST. JOSEPH'S HOSPITAL		TAMPA					X	
16 MARITAL STATUS (Check)		17 DECEASED'S SURVIVING SPOUSE'S NAME (Last, First, Middle Initial)					18 SURVIVING SPOUSE'S ADDRESS (Street, Box, Room, Floor, Apartment)	
Married		Name:					Address:	
19 RESIDENCE - STATE		20 COUNTY		21 CITY, TOWN, OR LOCATION		22 ZIP CODE		
FLORIDA		HILLSBOROUGH		TAMPA		33619		
23 STREET ADDRESS		24 DECEASED'S OCCUPATION (Please list if deceased worked during most of working life)		25 PLACE OF BUSINESS/INDUSTRY		26 ZIP CODE		
TAMPA		SALES REPRESENTATIVE		RETAIL SALES		33619		
27 DECEASED'S PLACE OF BIRTH (Indicate what deceased considered his/her place of birth. More than one may be checked)		28 DECEASED'S EDUCATION (Specify the deceased's highest degree or level of school completed at time of death.)					29 DECEASED'S SERVICE IN U.S. ARMED FORCES?	
White		High School Diploma or GED					X	
Asian Indian		College and Beyond						
Native Hawaiian		Other (Specify)						
29 DECEASED'S PARENT OF MARRIAGE (Check)		30 DECEASED'S PARENT OF MARRIAGE (Check)					31 DECEASED'S PARENT OF MARRIAGE (Check)	
Mother		Father					Other (Specify)	
32 PATIENT'S PAST MEDICAL HISTORY		33 MOTHER'S NAME (Last, First, Middle Initial)					34 INFORMANT'S NAME/STATE	
GEORGE KING EBERHART		ALICE MATTOX					DAUGHTER FLORIDA	
35 INFORMANT'S NAME		36 STREET ADDRESS		37 LOCATION - STATE		38 ZIP CODE		
ANGELA DEBOSE		TAMPA		FLORIDA		33604		
39 PLACE OF DISPOSITION (Place of entombment, interment, or other final resting place)		40 STREET ADDRESS		41 LOCATION - CITY OR TOWN		42 LOCATION - CITY OR TOWN		
REST HAVEN MEMORIAL PARK		301 NORTH HOWARD AVENUE		TAMPA		TAMPA		
43 METHOD OF DEPOSITION X Burial		44 DEATH CERTIFICATION					45 DATE OF DEATH (Month, Day, Year)	
46 IF CREMATION, LOCATION OR BURIAL AT SEA		47 DATE NUMBER OF DEATH					48 DATE OF FUNERAL SERVICES (INCLUDE OR PERSON ACTING AS SUCH)	
APPROVAL GRANTED? Yes No		F044240					49 FACILITY NUMBER - STATE	
50 NAME OF FUNERAL FACILITY		Signature					51 DECEASED'S NAME	
RAY WILLIAMS FUNERAL HOME							TAMPA	
52 CITY OR TOWN		53 STREET ADDRESS		54 LOCATION - CITY OR TOWN		55 ZIP CODE		
TAMPA		301 NORTH HOWARD AVENUE		TAMPA		33606		
56 CERTIFIER X Certifying Physician		On the basis of my knowledge, after review of the body, case and death, and due to the circumstances and manner of death.					57 MEDICAL EXAMINER	
58 DEATH CERTIFICATION		On the basis of examination, investigation, or information received in the course, death occurred in the time, date and place, due to the disease and manner of death.					59 MEDICAL EXAMINER'S NAME	
59 DEATH CERTIFICATION		On the basis of examination, investigation, or information received in the course, death occurred in the time, date and place, due to the disease and manner of death.					60 MEDICAL EXAMINER'S DATE NUMBER	
61 PHYSICIAN'S SIGNATURE		62 DATE BURNED (Month, Day, Year)					63 MEDICAL EXAMINER'S SIGNATURE	
64 STREET ADDRESS		65 STREET ADDRESS		66 STREET ADDRESS		67 STREET ADDRESS		
65 CITY OR TOWN		66 CITY OR TOWN		67 CITY OR TOWN		68 ZIP CODE		
FLORIDA		TAMPA		TAMPA		33607		
69 DATE REPORTED		70 DATE RECEIVED		71 DATE FILED BY REGISTRAIR		72 DATE FILED		
FLORIDA		TAMPA		TAMPA		SEP 30 2011		
73 PLACE OF BURIAL		74 DECEASED'S CAUSE OF DEATH					75 REPORTED TO MEDICAL EXAMINER DUE TO	
75 DECEASED'S CAUSE OF DEATH		76 DECEASED'S CAUSE OF DEATH					77 DECEASED'S CAUSE OF DEATH	
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28a. METHOD OF DEPOSITION <input checked="" type="checkbox"/> Burial	28b. DEPOSITOR <input type="checkbox"/> Death Certificate	28c. DEPOSITOR <input type="checkbox"/> Other	28d. SIGNATURE OF DEPOSITOR	28e. DATE DEPOSIT MADE
28f. Cremation, Donation or Burial at Sea	27a. LICENSE NUMBER OF FUNERAL DIRECTOR OR PERSON ACTING AS SUCH	27b. CEMETERY OR FUNERAL SERVICE PROVIDER OR PERSON ACTING AS SUCH		
28g. MEDICAL EXAMINER APPROVAL STATEMENT <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	F044240	<i>Christine J. Perez</i>		
28h. NAME OF FUNERAL FACILITY	RAY WILLIAMS FUNERAL HOME		28i. STATE WHERE DEPOSED - STATE	FLORIDA
28j. CITY OR TOWN	28k. STREET ADDRESS	28l. ZIP CODE		
TAMPA	301 NORTH HOWARD AVENUE	33606		
28m. CERTIFIER <input checked="" type="checkbox"/> Certifying Physician To the best of my knowledge, death occurred at the time, date and place, and due to the causes and manner stated.				
28n. OTHER CERTIFIER On the basis of examination and/or investigation, in my opinion, death occurred at the time, date and place, due to the causes and manner stated.				
28o. DEPARTMENT AND TITLE OF CERTIFIER	28s. DATE SIGNED (MM/YY)	28t. TIME OF DEATH (HH:MM)	28u. MEDICAL EXAMINER'S CASE NUMBER	
POLICE DEPARTMENT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	09-29-11	1555		
28v. LICENSE NUMBER OF CERTIFIER	28w. CERTIFIER'S NAME	28x. NAME OF ATTENDING PHYSICIAN (If not from Certifier)		
ME76671	CHRISTINE DAMIAN H.D.	3001 W. DR. MARTIN LUTHER KING BLVD	33607	
28y. CITY OR TOWN	28z. STREET ADDRESS	28aa. ZIP CODE		
FLORIDA	TAMPA	33607		
28b. QUARANTINE PERIOD - Duration and Date	28cc. LOCAL REGULATIONS	28dd. DATE FILED BY REGISTRAR (See Part IV)		
		SEP 30 2011		
28e. MEDICAL EXAMINER'S STATEMENT OF DEATH The following are under the jurisdiction of the medical examiner:				
28f. DEATH <input type="checkbox"/> Natural <input type="checkbox"/> Accidental <input type="checkbox"/> Disease <input type="checkbox"/> Homicide <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Undetermined				
28g. REPORTED TO MEDICAL EXAMINER (See Part IV) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
28h. CAUSE OF DEATH - PART I Cause of death(s) - Diseases, Injuries, or Dispositions - That directly caused the death. Other only ones listed on a line. Appropriate section: Direct or Death				
28i. OTHER INSTRUCTIONS ON DEATH If any, leading to the cause listed on line a. Enter Part II				
28j. IMMEDIATE CAUSE First disease or condition resulting in death				
28k. IMMEDIATE CAUSE If any, leading to the cause listed on line a. Enter Part II				
28l. UNDETERMINED CAUSE Diseases or conditions which contributed to the death but did not directly cause it				
28m. PREVIOUSLY KNOWN DISEASES OR CONDITIONS IN DEATH LAST				
28n. IF SURGERY MENTIONED IN PART I OR II, ENTER REASON FOR SURGERY				
28o. DATE OF SURGERY (MM, DD, YY) <input type="checkbox"/> DID SMOKING CONTRIBUTE TO DEATH				
28p. IF PREGNANT, WAS SHE PREGNANT WITHIN THE PAST YEAR				
28q. IF DEATH OCCURRED IN A HOSPITAL, NURSING HOME, OR HOME FOR THE AGED, DATE OF DEATH				
28r. DATE OF DEATH (MM, DD, YY) <input type="checkbox"/> DEATH IN A HOSPITAL, NURSING HOME, OR HOME FOR THE AGED <input type="checkbox"/> DEATH IN A HOME				
28s. DATE OF DEATH (MM, YY) <input type="checkbox"/> DEATH IN A HOSPITAL, NURSING HOME, OR HOME FOR THE AGED <input type="checkbox"/> DEATH IN A HOME				
28t. PLACE OF DEATH (See Part IV) <input type="checkbox"/> Cemetery <input type="checkbox"/> Construction Site <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Other				
28u. TRANSPORTATION DEATH, CAR, STATE OF REGISTRATION <input type="checkbox"/> Driver Operator <input type="checkbox"/> Passenger <input type="checkbox"/> Pedestrian <input type="checkbox"/> Other (Specify)				
28v. TYPE OF VEHICLE <input type="checkbox"/> Car <input type="checkbox"/> SUV <input type="checkbox"/> Motorcycle <input type="checkbox"/> Panel Truck/Chassis Van <input type="checkbox"/> Bus <input type="checkbox"/> Heavy Transport <input type="checkbox"/> Other (Specify)				

128274, O BK 20745
011 at 01:26 07 PM,
STOR Pat Frank, Clerk
Hillsborough County

28i. IF ALTERED OR ERASERED

SEP 30 2011

Christine Perez
CHIEF DEPUTY REGISTRAR



WARNING:

SEAL OF THE STATE OF FLORIDA DO NOT ACCEPT WITHOUT VERIFYING THE PRESENCE OF THE WATERMARK
THE DOCUMENT FACE CONTAINS A MATTE COLORED WATERMARK AND GOLD ENGRAVED SEAL. THE BACK
CONTAINS SPECIAL LINES WITH TEXT AND SEALS IN INK/CHARCOAL/INK.

DH FORM 1947 (3/3/04)

37841356

CERTIFICATION OF VITAL RECORD



JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Angela W. DeBoe,
Individually and as PERSONAL REPRESENTATIVE
Of the ESTATE of BERTHA WASHINGTON (deceased)

(b) County of Residence of First Listed Plaintiff Hillsborough County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

DEFENDANTS

McNeil-PPC, Inc.
Johnson & Johnson
The Walgreen Co.

County of Residence of First Listed Defendant Prince George County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|---|--|
| <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input checked="" type="checkbox"/> 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF	DEF	Citizen of Another State	PTF	DEF
<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2

Incorporated or Principal Place of Business In This State 4 4

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 625 Drug Related Seizure		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input checked="" type="checkbox"/> 365 Personal Injury - Product Liability		<input checked="" type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine			<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 490 Cable Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395f)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 DIWC/DIWV (405(g))	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	

V. ORIGIN

(Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|---|----------------------------|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 |
|---|---|--|---|--|---|----------------------------|

Appeal to District Judge from Magistrate Judge

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC 1337, 28 USC 1332, 42 USC 1983, Wrongful Death Act, FS, Restatement (Second) of Torts

Brief description of cause:
Product Liability - Tylenol Acetaminophen

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$
75,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER MDL No. 2436

DATE

SIGNATURE OF ATTORNEY OF RECORD

09/20/2013

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFFP _____ JUDGE _____ MAG. JUDGE _____